



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (5)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** Committee held on **Thursday 3rd December, 2015**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

**Members Present:** Councillors Angela Harvey (Chairman), Jan Prendergast and Rita Begum

#### 1 MEMBERSHIP

There were no changes to the membership.

#### 2 DECLARATIONS OF INTEREST

There were no declarations of interest.

#### 3 BEA'S OF BLOOMSBURY, 27A DEVONSHIRE STREET, W1

##### LICENSING SUB-COMMITTEE No. 5

*Thursday 3rd December 2015*

Membership: Councillor Angela Harvey (Chairman), Councillor Jan Prendergast and Councillor Rita Begum

Legal Adviser: Horatio Chance  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health and four local residents.

Present: Mr Heath Thomas (Solicitor, representing the Applicant), Ms Fatemeh Gogol (Proposed Designated Premises Supervisor), Ms Anuja Jayawickrema and Mr Ian Watson (Environmental Health) and Lady Ros Cox (representing Sir Alan Cox).

**Bea's Of Bloomsbury, 27A Devonshire Street, W1  
15/08801/LIPN**

1.	<b>Sale by Retail of Alcohol (On and Off)</b>
	Monday to Saturday:                      10:00 to 23:00 Sunday:    12:00 to 22:00
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The Sub-Committee initially heard from Mr Thomas. He referred to the document submitted to the Sub-Committee which described Bea’s Of Bloomsbury as a ‘cake boutique’. It served cakes and bespoke pastries in the mornings and the core business was afternoon teas. There were more substantial meals for festive occasions such as Thanksgiving and Christmas. Mr Thomas explained that the Applicant was seeking to supply a limited range of champagne and prosecco wine. Off-sales would be restricted to alcohol sold in hampers.  Mr Thomas stated that proposed conditions had been agreed with the Council’s Environmental Health Department (“Environmental Health”) with the aim of preventing public nuisance, including no noise being permitted to emanate from the premises. A condition had been discussed with Environmental Health to limit the use of the outside area to 22:00 hours. Proposed conditions had been agreed between the two parties that there would be no deliveries to the premises between 23:00 and 07:00 hours the following day or collections of waste or recycling materials from the premises between 23:00 and 08:00 hours the following day. Waste would be kept in the basement and this was likely to be minimal as food was produced at a different site and then delivered to the premises. Mr Thomas made the point in response to the residents’ concerns that it was accepted that the premises does have access to the rear service yard and it is not part of its demise. The Applicant owned the small private forecourt at the front of the premises and it was believed this area would accommodate a maximum of four small tables and eight chairs. In the event the application was granted, revised plans would be submitted which would fully reflect the forecourt area.  Mr Thomas requested that some of the proposed conditions the Applicant had agreed with the Metropolitan Police, prior to the latter withdrawing their representation, were tweaked. These included the proposed condition that ‘the supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal’. Mr Thomas asked that the reference to a table meal was replaced with substantial food to reflect that the premises provided cakes and afternoon teas. Mr Thomas also commented that whilst Bea’s of Bloomsbury was not a restaurant, it was food led. The proposed hours were within the core hours as set out in policy

HRS1.

The Sub-Committee heard from Mr Watson on behalf of Environmental Health. He informed Members that Environmental Health had maintained their representation due to residential objections. He and Ms Jayawickrema had visited the premises. There was no door from the premises leading to the rear service area and no proposal to use it. Mr Watson asked the Applicant to confirm that the area marked 'bar' on the current plans was in fact a seated counter. Mr Heath replied that this was indeed the intention and if the application was granted the reference to 'bar' would be removed from the revised plans. Mr Watson referred to the fact that there would be no primary cooking at the premises. Therefore there would be no high extract system. The capacity was limited to 50 people. He had proposed that use of the outside tables and chairs was limited to 22:00. Mr Watson had no objections to tweaking the Police conditions including that the table meal condition was replaced with substantial food. He also recommended that a time period was given for how long the Applicant was expected to keep a record of all home or external deliveries from the store of alcohol to include whom the package was delivered to and what proof of ID was shown.

Mr Thomas and Ms Gogol responded in answer to a question from the Sub-Committee that they believed the premises immediately above Bea's of Bloomsbury were residential. The Applicant stated that they were not permitted in their lease to use the rear service yard and had not been granted access rights to use it.

Lady Cox provided the Sub-Committee with a photograph of the front of the premises which showed the entrance to Basildon Court where she lives. The Applicant consented to the photograph being seen by Members as it was felt that it was an accurate reflection of it. However, Mr Thomas added it did not show the full extent of the building including Lady Cox's own home. Mr Thomas wished to emphasise that Lady Cox was speaking on behalf of her husband and not Basildon Court Residents' Association which she chairs. The Committee noted that they had not submitted a representation within the required timescale.

Lady Cox advised the Sub-Committee that Devonshire Street had always been a residential street and over the last three years residents had increasingly been surrounded by street furniture. This included Cote Brasserie obtaining a 'tables and chairs' licence in 2013 at 27 Devonshire Street. Bea's of Bloomsbury had submitted an application which included use of the outside area on a very narrow forecourt. Use by customers and waiter or waitress service in the outside area would encroach onto the pavement. There were four restaurants in the locality and it was felt that the residential nature of the street was being eroded. Lady Cox did not believe that the more substantial meals for festive occasions were in keeping with the general application. She also expressed concerns about the putting out of rubbish which had previously been an issue with the previous owners of 27A Devonshire Street. She confirmed that it was her understanding that there are residents immediately above the premises. She was asked by the Sub-Committee for her view on what time was appropriate for deliveries to the premises and collections of waste or recycling materials to cease. Lady Cox replied that she believed 22:00 was reasonable.

Ms Gogol informed the Sub-Committee that deliveries tended to arrive at 07:30 to 08:00 every morning. The deliveries were brought in plastic containers which were sent back to the location where food was prepared. Lady Cox was asked about her preference for when delivery times should commence and she replied that 08:00 was appropriate. Mr Thomas made the point that this would be difficult for his client as it was proposed that Bea's of Bloomsbury would open from 07:30 hours and it was therefore hoped that the Sub-Committee would be minded to keep the commencement hour of 07:00 for deliveries agreed between the Applicant and Environmental Health.

Mr Wroe drew Members' attention to the fact that the Police had agreed conditions with the Applicant and had withdrawn their representation on the basis of what had been agreed. This included the supply of alcohol at the premises only being provided to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal. Any amendments to the conditions would take place without the Police being present at the hearing. Mr Thomas explained that Mr Watson had spoken to PC Guerra that morning and the Police appeared to be amenable to certain tweaking of conditions. He expressed the view that the Council's definition of a table meal was relatively strict. The Applicant would provide a table meal but it would be subject to interpretation as afternoon tea might not involve a knife and fork.

Members of the Sub-Committee, in reaching their decision, were very aware of this location being residential. Significantly this was so immediately above the premises. Members were content to grant the proposed hours for the sale of alcohol inside the premises but had concerns about the use of the outside area. The Sub-Committee therefore in granting the application limited the supply and consumption of alcohol to outside customers to no later than 21:00 hours and required that the outside area was not used after 22:00. There would be no deliveries to the premises or collections of waste or recycling materials after 22:00. The Sub-Committee gave thought to the commencement time for deliveries and the needs of residents but equally were conscious of balancing these with the requirements of the business. Members therefore decided to permit deliveries at 07:00 hours to enable the premises to open at 07:30 hours. Environmental Health was requested to examine carefully under the terms of the works condition attached to the licence that the use and servicing of the outside area would not impinge on the public highway. The Applicant was advised that there was the potential for the premises licence to be reviewed if pedestrians were blocked from using the public highway by the use of the outside area, should this give rise to a public nuisance.

Members decided to tweak two of the conditions that had been agreed between the Police and the Applicant so that 'the supply of alcohol at the premises shall only be to a person seated consuming substantial food there and for consumption by such a person as ancillary to their meal' and a record of all home or external deliveries from the store of alcohol would be required to be kept to include whom the package was delivered to and what proof of ID was shown for a 31 day period.

<b>2. Opening Hours:</b>	
Monday to Saturday: Sunday:	07:30 to 23:00 07:30 to 23:00
Amendments to application advised at hearing:  None.	
Decision (including reasons if different from those set out in report):  Granted, subject to conditions as set out below.	

### **Conditions attached to the Licence**

#### **Mandatory Conditions**

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
  - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 6.
- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
7. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml;

- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **Additional Conditions**

9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The external tables shall be covered. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

10. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested

11. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) any faults in the CCTV system
- (f) any refusal of the sale of alcohol
- (g) any visit by a relevant authority or emergency service

12. No open containers of alcohol shall be allowed beyond the boundaries of the licensable area.

13. The supply of alcohol at the premises shall only be to a person seated



consuming substantial food there and for consumption by such a person as ancillary to their meal.

14. A record of all home or external deliveries from the store of alcohol shall be kept to include whom the package was delivered to and what proof of ID was shown. The record shall be kept for a minimum of 31 days and made available immediately upon request to Police and authorised officers of the Licensing Authority.
15. All staff shall receive training in the responsible sale of alcohol as required by the 2003 Licensing Act
16. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
17. In relation to off sales, no more than 15% of the sales area to be used at any one time for the sale, exposure for sale, or display of alcohol, or pre-packaged hampers containing alcohol.
18. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
19. The only alcohol sold at the premises shall be Wine, beer or Champagne.
20. Signs shall be displayed in prominent places within the premises stating that it is an offence for persons under the age of 18 to purchase alcohol.
21. There shall be no self-service of alcohol. There shall be waiter/waitress service only.
22. Outside tables shall be removed by 22:00 hours
23. There shall be no sale of draught beer.
24. The supply of alcohol for consumption on the premises shall be by waiter or waitress service only to persons seated.
25. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
26. There shall be no self-service of alcohol for consumption 'On' the premises.
27. Licensable activities are permitted on the ground floor only.
28. The number of persons seated in the premises at any one time (excluding staff) shall not exceed

Ground Floor 50 persons.

29. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
30. All outside tables and chairs shall be rendered unusable between 22.00 hours and 08.00 hours each day.
31. No deliveries to the premises shall take place between 22.00 hours and 07.00 hours on the following day.
32. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them, except for those persons seated at the external tables and chairs.
33. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
34. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
35. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
36. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
37. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
38. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
39. No collections of waste or recycling materials (including bottles) from the premises shall take place between 22:00 and 08:00 hours on the following day.
40. No licensable activities shall take place at the premises until the premises have been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the Licensing Authority.
41. Alcohol shall not be supplied or consumed in the outside area after 21:00 hours.

**4 PATARA FINE THAI CUISINE, 5 BERNERS STREET, W1**

**LICENSING SUB-COMMITTEE No. 5**

*Thursday 3rd December 2015*

Membership: Councillor Angela Harvey (Chairman), Councillor Jan Prendergast and Councillor Rita Begum

Legal Adviser: Horatio Chance  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health, one Ward Councillor and one local resident.

Present: Mr Gareth Hughes (Solicitor, representing the Applicant), Mr Andy Holman (Managing Director), Mr Dave Nevitt (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Mr Sacha Brooks) and Mr Sacha Brooks (local resident).

<b>Patara Fine Thai Cuisine, 5 Berners Street, W1 15/08375/LIPN</b>	
<b>1.</b>	<b>Sale by Retail of Alcohol (On)</b>
	Monday to Thursday: 11:00 to 23:30 Friday to Saturday: 11:00 to 00:00 Sunday: 11:00 to 23:30
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  The Sub-Committee initially heard from Mr Hughes, representing the Applicant. He stated his client currently owned restaurants in London, including Mayfair, Knightsbridge, Fulham Road and around the world, including Geneva, Vienna and Beijing. Mr Hughes took Members through the plans and referred to the proposal which had been acceptable to the Police prior to the withdrawal of their representation, and that alcohol would be ancillary to those dining or to those who are waiting to dine (limited to a maximum of 20 persons). The designated area where the Applicant sought the ability to sell alcohol to those waiting to dine was marked "bar" and section 1 dining on the ground floor of the premises on

the deposited plan.

Mr Hughes addressed the Sub-Committee on the Council's Statement of Licensing Policy. He made the point that paragraph 2.5.9 states that 'new restaurant premises will generally be granted the core hours (for premises that serve alcohol for consumption on the premises) in line with Policy HRS1'. He added that the premises would operate as a restaurant throughout its operating hours which would be in keeping with the Council's Core Hours policy. The Applicants had proposed 14 conditions in order to promote the licensing objectives.

Mr Hughes informed Members of the Sub-Committee that as requested by Mr Nevitt in his written representation on behalf of the Council's Environmental Health Department ("Environmental Health"), the Applicant was withdrawing recorded music from the application. The Applicant was content for the Model Condition 37 proposed by Mr Nevitt to be attached to the premises licence. This set a capacity of 100 persons on the ground floor and 60 persons in the basement (Mr Nevitt later clarified that this figure did not include staff). Mr Hughes asked that the amended restaurant condition agreed with the Police that permitted the sale of alcohol to up to twenty people waiting to dine be imposed rather than the original wording of MC66 as proposed by Mr Nevitt.

Mr Hughes also stated that his client was content for six conditions proposed by Mr Brooks, a local resident, and supported by Councillor Glanz, Member for West End Ward, to be attached to the premises licence. These conditions included limiting the hours for servicing and waste collection in the locality, not using Berners Place for servicing or as a smoking area at any time and that the windows onto Berners Place would be kept sealed at all times. There was one condition proposed by Mr Brooks that Mr Hughes requested was not attached. This was that 'the servicing management strategy approved by the local planning authority be provided and form part of the licence conditions'. Mr Hughes explained that the servicing management strategy had not yet been submitted to the local planning authority. Mr Brown, representing Mr Brooks, advised that if the six proposed conditions which included restrictions on servicing in the locality were attached to the premises licence, Mr Brooks was content for this condition to be withdrawn.

Mr Hughes commented that it would be beneficial to the Sub-Committee if Mr Nevitt explained the position regarding the concerns of Mr Nevitt and Mr Brooks regarding the installation of the ventilation plant. Mr Nevitt, in addition to confirming that he was content regarding the proposed conditions, referred Members to the condition proposed by the Applicant that 'no noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance'. The significance of this was that currently there was noise being caused by the operation of the plant and this was accepted by the Applicant. There was planning approval for A3 class use of the premises. The extract ventilation system which removed heat and odours from the cooking was required as part of the planning approval to be routed to the top of the building to disperse and discharge at high level. However, Mr Nevitt had found during his site visit that the kitchen extract ventilation was discharging at low

level through a light well in a temporary refuse area on the lower ground floor. There were also condenser units for air conditioning located in the light well. Mr Nevitt advised that there were two issues raised by the incorrect installation. Firstly, the cooking fumes were not discharging in the manner expected and secondly, the plant was located in a position which was much nearer the residents. Consequently, the plant had been creating a noise nuisance, thus impacting on a quiet residential area.

Mr Nevitt made the point that it was his understanding that action may now have been taken in the short term to silence the extract ventilation system. In addition to removing the noise, there would be no odours emanating as it would be kitted out to prevent them. Mr Nevitt advised that on the basis of conversations with the Applicant, the latter was committed as part of the planning process to carry out the works to relocate the discharge to the top of the building. The incorrect location for the discharging of the extract ventilation system was a planning matter which enforcement officers were aware of. Mr Nevitt would also need to re-visit the site.

Mr Brown briefly addressed the Sub-Committee on the reasons for Mr Brooks' proposed conditions including that Berners Place is a short, narrow cul-de-sac with no turning space and should not be used for vehicles servicing the restaurant. He also made the point that Berners Place was very quiet and high sided so that noise reverberates. Mr Brown stated that as the six proposed conditions had been agreed, this meant that the discharge of the kitchen extract ventilation was the major remaining concern.

Mr Brown made reference to the significant residential flats in the locality and that there were due to be residential flats above the premises once constructed. He informed Members that there was noise nuisance being caused by the plant currently. The question he believed the Sub-Committee needed to consider was whether it was right to grant the application with the 'no noise generated on the premises or by its associated plant or equipment' condition if it could not be complied with yet. Mr Brooks was reassured following discussions with the Applicant that the latter would undertake the necessary works. Mr Brooks added that residents were likely to be able to tolerate any noise from the plant for a short period of time but he wanted to be reassured that if the nuisance had not been dealt with by a fixed date it could be handled under the licensing process. Mr Holman had in discussions with him indicated that the works would potentially be undertaken in January 2016 and therefore the fixed date could follow relatively soon thereafter.

Mr Holman responded to Mr Brooks' comments with the assertion that he was committed to undertake the necessary works to re-locate the discharging of the extract ventilation system. He did not wish to commit to a definite date for the completion of the works as it depended on a number of contractors' schedules and the agreement of the Planning Authority. However, he believed the end of February was achievable. Mr Hughes welcomed the idea of Mr Nevitt visiting the site again to assess the situation, including as to whether the correct steps were being taken to silence the extract ventilation system and prevent odours emanating.

In response to questions from the Sub-Committee, Mr Holman provided the information that patrons would be encouraged to smoke to the left or right of the frontage of the restaurant in Berners Street. There was an area outside the hotel next door which was designated for smokers. Mr Nevitt concurred that there was a wide pavement in the hotel's designated smoking area where there was room to accommodate smokers. Potential smokers were not a particular concern for Environmental Health given that the proposed hours were within the Council's Core Hours policy. Mr Holman also explained that the planning application had been submitted by the landlord and the Applicant Company had acquired a lease at the premises. Once it had come to his attention that the situation needed to be rectified then he had worked with the landlord to achieve this. Certain experts who had given advice had questions to answer.

Mr Brown advised the Committee that following discussions with the Applicant, Mr Brooks was now of the view that rather than requesting that the application should be refused he would now be amenable to it being granted provided that there was an unequivocal commitment on the part of the Applicant to resolve the nuisance and complete the works as expeditiously as possible. Mr Brown also requested that the Council's model condition 24 was attached to the licence making it a requirement that 'a direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity'. He believed that Mr Holman had provided this to Mr Brooks but that it was useful for other residents to have access to this information too.

Mr Hughes requested that a set date for completion of the works was not imposed by the Sub-Committee. There would need to be a planning application and this would generally be determined within eight to twelve weeks. He requested that the Sub-Committee accept the Applicant's undertaking that the planning application would be submitted as soon as possible. If the Applicant was operating in breach of its planning conditions or in breach of its licensing conditions in the event the application was granted then there were other powers available to the Planning Authority or the Licensing Authority by way of enforcement action.

The Sub-Committee also asked about the position regarding the lavatories. Mr Nevitt had referred in his written representation to works having started at the premises and advocating proposals to avoid the possibility of unisex toilets. Mr Holman replied that he had complied with Mr Nevitt's minimal requirement for a communal entrance with three lavatories on the left for ladies, two on the right for men, a disabled unit on the ground floor and separate staff toilets. They had as advised installed additional CCTV cameras to monitor the lobby area leading to the communal entrance. The Sub-Committee shared Mr Nevitt's concerns that this was a second best option that admittedly was better than unisex toilets but that separate facilities or lobbies for males and females would have been the preferred option.

The Sub-Committee granted the application, considering that the Applicant had taken a number of steps to promote the licensing objectives. These included proposing to operate the restaurant within the Council's Core Hours policy, withdrawing recorded music and following useful discussions both prior to and

	<p>during the hearing had agreed a number of conditions put forward by the parties that had originally objected to the application. The Sub-Committee was satisfied that the application would not have an adverse effect on cumulative impact in the West End Stress Area. The Sub-Committee was very aware of the outstanding issue in respect of the incorrect location for the discharging of the extract ventilation system and the Applicant was advised that if the problem was not addressed to Environmental Health or local residents' satisfaction there was the potential for a review of the premises licence. Mr Brooks was encouraged to remain in contact with Councillor Glanz in his capacity as Ward Member, particularly in the event that the matter was not resolved expeditiously. The conditions attached to the premises licence included the six conditions proposed by Mr Brooks and the manager's direct telephone number being made publicly available at all times the premises is open to residents and businesses in the vicinity. The Sub-Committee also attached the condition proposed by Mr Nevitt regarding the capacity and emphasising that this excluded staff and also the amended restaurant condition the Applicant had agreed with the Police, clarifying that the maximum of twenty customers at any one time who were permitted to consume alcohol whilst waiting to dine would do so in the area marked bar and section 1 dining on the ground floor of the premises on the deposited plan.</p>						
<b>2.</b>	<b>Late Night Refreshment:</b>						
	<table border="0"> <tr> <td>Monday to Thursday:</td> <td>23:00 to 23:30</td> </tr> <tr> <td>Friday to Saturday:</td> <td>23:00 to 00:00</td> </tr> <tr> <td>Sunday:</td> <td>23:00 to 23:30</td> </tr> </table>	Monday to Thursday:	23:00 to 23:30	Friday to Saturday:	23:00 to 00:00	Sunday:	23:00 to 23:30
Monday to Thursday:	23:00 to 23:30						
Friday to Saturday:	23:00 to 00:00						
Sunday:	23:00 to 23:30						
	<p>Amendments to application advised at hearing:</p> <p>None.</p>						
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>						
<b>3.</b>	<b>Recorded Music:</b>						
	<table border="0"> <tr> <td>Monday to Thursday:</td> <td>11:00 to 23:30</td> </tr> <tr> <td>Friday to Saturday:</td> <td>11:00 to 00:00</td> </tr> <tr> <td>Sunday:</td> <td>11:00 to 23:30</td> </tr> </table>	Monday to Thursday:	11:00 to 23:30	Friday to Saturday:	11:00 to 00:00	Sunday:	11:00 to 23:30
Monday to Thursday:	11:00 to 23:30						
Friday to Saturday:	11:00 to 00:00						
Sunday:	11:00 to 23:30						
	<p>Amendments to application advised at hearing:</p> <p>It was confirmed at the hearing that the Applicant had withdrawn recorded music.</p>						

	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee was not required to consider this aspect of the application as it had been withdrawn by the Applicant.</p>						
<b>4.</b>	<b>Seasonal Variations:</b>						
	<p><b><u>Sale by Retail of Alcohol (On), Late Night Refreshment, Recorded Music and Opening Hours</u></b></p> <p>The hours for licensable activities and opening times shall be extended from the end of authorised hours on New Year's Eve until the start of hours on New Year's Day.</p>						
	<p>Amendments to application advised at hearing:</p> <p>None.</p>						
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>						
<b>5.</b>	<b>Opening Hours:</b>						
	<table> <tr> <td>Monday to Thursday:</td> <td>11:00 to 23:30</td> </tr> <tr> <td>Friday to Saturday:</td> <td>11:00 to 00:00</td> </tr> <tr> <td>Sunday:</td> <td>11:00 to 23:30</td> </tr> </table>	Monday to Thursday:	11:00 to 23:30	Friday to Saturday:	11:00 to 00:00	Sunday:	11:00 to 23:30
Monday to Thursday:	11:00 to 23:30						
Friday to Saturday:	11:00 to 00:00						
Sunday:	11:00 to 23:30						
	<p>Amendments to application advised at hearing:</p> <p>None.</p>						
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>						



## Conditions attached to the Licence

### **Mandatory Conditions**

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
  - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
    - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
    - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
    - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
    - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance

by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
  - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
7. The responsible person must ensure that—
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml;
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for

consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

**Additional Conditions**

9. No servicing other than in connection with refuse and recycling shall take place on Berners Place. Collections of waste and recycling shall only take place between:
  - Monday to Thursday 08:00 and 21:00
  - Friday and Saturday 08:00 and 21:00
  - Sunday and Bank Holiday Mondays between 10:00 and 21:00.
10. All servicing other than that in connection with refuse and recycling shall take place via the Berners Street entrance and shall only be between:
  - Monday to Thursday 08:00 and 21:00
  - Friday and Saturday 08:00 and 21:00
  - Sunday and Bank Holiday Mondays between 10:00 and 21:00.
11. Waste or recyclable materials, including bottles shall only be moved, removed, placed in or removed from the waste store, placed in outside areas or collected between:
  - Monday to Thursday 08:00 and 21:00
  - Friday and Saturday 08:00 and 21:00
  - Sunday and Bank Holiday Mondays between 10:00 and 21:00.
12. Access to or from the premises via Berners Place by public or staff shall only be in the event of an emergency and access shall be kept closed at all other times except when open for the purpose of removal of waste during permitted hours in accordance with conditions 9, 10 and 11.
13. Neither public nor staff shall be permitted to use Berners Place as a smoking area at any time.
14. The windows onto Berners Place shall be kept sealed at all times.
15. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
16. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay

when requested.

17. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol
18. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
19. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
20. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
21. No licensable activities shall take place at the premises until the licensing authority are satisfied that the premises is constructed or altered in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition shall be removed from the licence by the licensing authority.
22. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
23. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
24. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
25. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 100 persons on the ground floor and 60 persons in the basement.
26. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
27. The premises shall only operate as a restaurant
  - (i) in which customers are shown to their table,
  - (ii) where the supply of alcohol is by waiter or waitress service only,
  - (iii) which provide food in the form of substantial table meals that are prepared

on the premises and are served and consumed at the table using non disposable crockery,  
(iv) which do not provide any take away service of food or drink for immediate consumption,  
(v) which do not provide any take away service of food or drink after 23.00, and  
(vi) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals or to those who are waiting to dine (limited to a maximum of 20 persons) in the area marked bar and section 1 dining on the ground floor of the premises on the deposited plan.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.

28. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system, searching equipment or scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

29. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.

## **5 SCOTCH ST JAMES, 13 MASON'S YARD, SW1**

### **LICENSING SUB-COMMITTEE No. 5**

*Thursday 3rd December 2015*

Membership: Councillor Angela Harvey (Chairman), Councillor Jan Prendergast and Councillor Rita Begum

Legal Adviser: Horatio Chance  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon

Objections: 1 objector.

Present: Mr Gary Grant (Counsel, representing the Applicant) and Mr Tim Lalic (owner of premises).

**Scotch St James, 13 Masons Yard, SW1  
15/08445/LISEVR**

An application for the renewal of the Sexual Entertainment Venue licence.

Amendments to application advised at hearing:

None.

Decision (including reasons if different from those set out in report):

Granted, subject to the same conditions as attached to the previous licence in June 2012 and July 2015.

The Sub-Committee in granting the application accepted the point of the Applicant's Representative, Mr Grant, that there were not any grounds for the current application not to be renewed. The proposed hours and conditions were the same as those attached to the Sexual Entertainment Venue ('SEV') licence in 2012 and there had been no proposed amendments to the renewed applications in July 2015. There was no evidence to suggest that Scotch St James was now having an adverse impact on the character of the relevant locality or that anything had changed within the locality since July 2015 to make it unsuitable. It is located in Westminster core CAZ north. The appropriate number of SEVs in this area had been set by the Council at 25 and as the premises are currently licensed, the maximum of 25 would not be exceeded.

The Committee did not raise any concerns regarding the suitability of the applicant. Mr Grant stated that it was accepted that since his client, Mr Lalic, had taken over the operation of the premises the concerns of local residents had lessened significantly. There had been 21 objections to the SEV licence being granted in June 2012 and previous management had been running Scotch St James when the review of the premises licence had taken place in November 2012. There had been one objection to the current application. Mr Grant advised the Sub-Committee that Scotch St James was currently operating as a nightclub and his client was not bringing the SEV licence into effect. Mr Lalic was applying because it was a valuable asset and it was a condition on his lease that it remained in force (this was confirmed by a letter from the landlord included in the report for the application). Mr Grant added that should there be serious concerns about the running of the premises, then the correct approach would be to apply for a review of the premises licence under the provisions of the Licensing Act 2003. Mr Grant added that Mr Lalic did not accept that there was any rowdiness being caused by the premises.

## Conditions on the Licence

### **Standard Conditions**

1. Whilst Relevant Entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice to that effect shall be displayed at the entrance in a prominent position so that it can be easily read by persons entering the premises.
2. Whenever persons under the age of 18 are admitted to the premises there will be no promotional or other material on display within the premises which depicts nudity or partial nudity.
3. The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.
4. No provision of relevant entertainment, or material depicting nudity or relevant entertainment, shall be visible from outside the premises.
5. Menus and drinks price lists shall be clearly displayed at the front entrance of the club, reception area, tables and bar at such a position and size as to be easily read by customers. This price list shall show all consumable items and any minimum tariff including charges and fees applicable to Performers.
6. Except with the consent of the Licensing Authority, no advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) shall be inscribed or affixed at the premises, on the surface of the highway or on any building, structure, works, street furniture, tree or any other property or be distributed in the street to the public that advertises or promotes the relevant entertainment at the premises.
7. The licence holder or other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting, nor enter into any agreement with a third party to do so.
8. Adequate toilets, washing and changing facilities for use by the Performers shall be provided.
9. Either the licence holder or a named responsible person shall be present throughout the time the Relevant Entertainment takes place.
10. The premises will install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer that ensures all areas of the licensed premises are monitored including all entry and exit points will be covered enabling frontal identification of every person entering any light condition. All cameras shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the



preceding 31 day period together with facilities for viewing.

11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public and this staff member should be able to show Police recent data and footage with the absolute minimum of delay of the request.
12. An incident log shall be kept at the premises, and made available on request to the Licensing Authority or the Police, which will record the following:
  - (a) all crimes reported to the venue;
  - (b) all ejections of patrons;
  - (c) any complaints received;
  - (d) any incidents of disorder;
  - (e) seizures of drugs or offensive weapons;
  - (f) any faults in the CCTV system or searching equipment or scanning equipment;
  - (g) any refusal of the sale of alcohol;
  - (h) any visit by a relevant authority or emergency service;
  - (i) any breach of licence conditions reported by a Performer.
13. The licence holder shall produce a Code of Conduct setting out rules and obligations between the licence holder and performers whilst performing. All Performers shall sign the Code of Conduct in their proper name acknowledging that they have read, understood and are prepared to abide by the said Code of Conduct, and a copy so signed shall be retained by the licence holder and shall be readily available for inspection by the Police and/or authorised persons upon reasonable request.
14. Individual records shall be kept at the premises of the real names, stage names and addresses of all Performers working at the premises. The record will include either a copy of their birth certificate, current passport, EU driving licence or national identity card and shall be made immediately available for inspection by the Police and/or the Licensing Authority upon request.
15. Details of all work permits and/or immigration status relating to persons working at the premises shall be retained by the licence holder and be readily available for inspection by the Licensing Authority, a Police Officer or Immigration Officer.
16. Relevant Entertainment shall be given only by Performers and the audience shall not be permitted to participate in the relevant entertainment.
17. There shall be no physical contact between Performers whilst performing.
18. Performers will not request or give out any telephone number, address or any other contact information from or to any customer. Any such information given by a customer shall be surrendered to the premises manager as soon as is practicable.
19. Relevant Entertainment shall take place only in the designated areas approved by the Licensing Authority as shown on the licence plan. Arrangements for access to the dressing room shall be maintained at all times whilst Relevant Entertainment is taking place and immediately thereafter.

20. Customers must remain fully clothed at all times. The Performer must not remove any of the customer's clothing at any time.
21. Where Relevant Entertainment is provided in booths, or other areas of the premises where private performances are provided, the booth or area shall not have a door or other similar closure, the area shall be constantly monitored by CCTV, and access to the booth or other area shall be adequately supervised.
22. Whenever Relevant Entertainment is being provided there shall be no physical contact between Performers and customers or between customers and Performers except for the exchanging of money or tokens at the beginning or conclusion of the performance and only for the purpose of that performance. Clearly legible notices to this effect shall clearly be displayed in each private booth and in any performance area.
23. Performers must redress fully immediately after each performance.

**Additional Conditions**

24. Payment for the dance shall only be made by either adding the amount to the customer's bill or by paying the dancer after she returns to the table fully clothed.
25. At all times whilst dancing takes place at least one registered door supervisor shall be employed in the part of the premises used for dancing.
26. The maximum number of persons accommodated at any one time (excluding staff) shall not exceed 100 persons, with no more than 50 persons (excluding staff) between 03.00 and 05.00 hours.
27. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
28. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
29. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
30. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
31. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
32. All exit doors shall be available at all material times without the use of a key, code, card or similar means.

33. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
- i. pyrotechnics including fire works
  - ii. firearms
  - iii. lasers
  - iv. explosives and highly flammable substances.
  - v. real flame.
  - vi. strobe lighting
34. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
35. No relevant entertainment shall take place at the premises until the premises has been inspected to the satisfaction of the Licensing Service and Environmental Health Service.

**6 THE BOX, 11-12 WALKER'S COURT, W1 - NEW SEXUAL ENTERTAINMENT VENUE PREMISES LICENCE 15/08960/LISEVN**

**LICENSING SUB-COMMITTEE No. 5**

*Thursday 3rd December 2015*

Membership: Councillor Angela Harvey (Chairman), Councillor Jan Prendergast and Councillor Rita Begum

Legal Adviser: Horatio Chance  
 Policy Adviser: Chris Wroe  
 Committee Officer: Jonathan Deacon

Objections: Environmental Health and Metropolitan Police.

Present: Mr Craig Baylis (Solicitor, representing the Operator, Too 2 Much Ltd), Mr Alun Thomas (Solicitor, representing the Landlord, Soho Estates), Mr Mark Hladnik (Designated Premises Supervisor), Mr Aasim Chaudry (General Manager), Mr Nick Lawson (Soho Estates), Mr Rory Aikenhead (Architect), Mr Ian Watson (Environmental Health) and PC Adam Deweltz (Metropolitan Police)

**The Box, 11-12 Walker's Court, W1  
 15/08960/LISEVN**

An application for a new Sexual Entertainment Venue premises licence submitted by

Too 2 Much Limited.

Amendments to application advised at hearing:

None.

Decision (including reasons if different from those set out in report):

Mr Thomas during the hearing explained the proposed changes that were envisaged as a result of the intended redevelopment of Walker's Court following the grant of planning permission. The Sub-Committee noted that this particular application (15/08960/LISEVN) was for a temporary interim solution to ensure that The Box would be able to keep trading whilst works were completed over an estimated two and a half to three year period. The Applicant was proposing to move the licensed areas as an interim measure from the first floor theatre and second floor bar to a ground floor VIP area and first floor main room.

The Sub-Committee noted that this was a new Sexual Entertainment Venue ('SEV') application. However, the Applicant was applying for the same activities (to provide burlesque, nude cabaret, nude performances and plays, adult related theatrical performances, striptease, pole dancing and table dancing and involve implied nudity, full and partial nudity between the hours of 09:00 to 04:00 on each of the days Monday to Saturday and 09:00 to 00:30 on Sundays) as was permitted on an existing SEV licence, 15/06091/LISEVR, held by the tenants. The overall capacity of 288 was also permitted on the existing SEV licence.

Mr Baylis, representing the Applicant (the tenants of the premises), referred to the fact that there were no residents objecting for the interim SEV licence application. The two remaining representations submitted for the application were from the Metropolitan Police and the Council's Environmental Health Department ("Environmental Health"). PC Deweltz made the point that the applications being considered at the hearing were new applications and The Box is located in the West End Stress Area. The applications could potentially add to cumulative impact. Mr Watson, on behalf of Environmental Health, stated that a key aspect from Environmental Health's point of view was that the development ensured that there was adequate means of escape. Current means of escape needed to be maintained and new means of escape provided. He was content with the interim arrangements subject to clearance from the District Surveyor.

Mr Thomas requested that the capacity split for the floors at the premises was delegated to Environmental Health to determine rather than these being imposed at the hearing. Mr Wroe asked whether the respective Applicants (the landlords for the interim and final scheme applications under the Licensing Act 2003 and the tenants for the interim and final scheme Sexual Entertainment Venue applications) were proposing to surrender their existing licences so that in the event the interim scheme applications were granted by the Sub-Committee, the current licences were surrendered and when the final scheme licences came into effect the interim licences would be surrendered. Mr Thomas and Mr Baylis advised the Committee that they

had no objection to this approach.

The Sub-Committee, in granting the application, considered that surrendering the existing and interim SEV licences over time would be beneficial as it would assist in controlling the capacity in the West End Stress Area. As a result of the surrendering of the existing and interim SEV licences as the development progressed, it would clarify that the total capacity of 288 and the hours for the activities sought were the same as the existing licence 15/06091/LISEVR. The Sub-Committee decided not to impose specific capacities for different areas of the premises as requested by Mr Thomas. Environmental Health would be relied upon to determine the capacities as a result of the works condition being attached to the SEV licence.

Members did not consider that any new evidence had been provided that questioned the suitability of the Applicant. The fact that the Applicant was content to surrender the existing and interim SEV licences as the development progressed meant that the number of SEVs in the locality would not exceed 25. The Box is located in the Westminster Core CAZ North and it was not felt that the character or use of premises in the vicinity had changed since a SEV licence was previously granted for the premises.

### **Conditions on the Licence**

#### **Standard Conditions**

1. Whilst Relevant Entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice to that effect shall be displayed at the entrance in a prominent position so that it can be easily read by persons entering the premises.
2. Whenever persons under the age of 18 are admitted to the premises there will be no promotional or other material on display within the premises which depicts nudity or partial nudity.
3. The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.
4. No provision of relevant entertainment, or material depicting nudity or relevant entertainment, shall be visible from outside the premises.
5. Menus and drinks price lists shall be clearly displayed at the front entrance of the club, reception area, tables and bar at such a position and size as to be easily read by customers. This price list shall show all consumable items and any minimum tariff including charges and fees applicable to Performers.

6. Except with the consent of the Licensing Authority, no advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) shall be inscribed or affixed at the premises, on the surface of the highway or on any building, structure, works, street furniture, tree or any other property or be distributed in the street to the public that advertises or promotes the relevant entertainment at the premises.
7. The licence holder or other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting, nor enter into any agreement with a third party to do so.
8. Adequate toilets, washing and changing facilities for use by the Performers shall be provided.
9. Either the licence holder or a named responsible person shall be present throughout the time the Relevant Entertainment takes place.
10. The premises will install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer that ensures all areas of the licensed premises are monitored including all entry and exit points will be covered enabling frontal identification of every person entering any light condition. All cameras shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period together with facilities for viewing.
11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public and this staff member should be able to show Police recent data and footage with the absolute minimum of delay of the request.
12. An incident log shall be kept at the premises, and made available on request to the Licensing Authority or the Police, which will record the following:
  - (a) all crimes reported to the venue;
  - (b) all ejections of patrons;
  - (c) any complaints received;
  - (d) any incidents of disorder;
  - (e) seizures of drugs or offensive weapons;
  - (f) any faults in the CCTV system or searching equipment or scanning equipment;
  - (g) any refusal of the sale of alcohol;
  - (h) any visit by a relevant authority or emergency service;
  - (i) any breach of licence conditions reported by a Performer.
13. The licence holder shall produce a Code of Conduct setting out rules and obligations between the licence holder and performers whilst performing. All Performers shall sign the Code of Conduct in their proper name acknowledging that they have read, understood and are prepared to abide by the said Code of Conduct, and a copy so signed shall be retained by the licence holder and shall

be readily available for inspection by the Police and/or authorised persons upon reasonable request.

14. Individual records shall be kept at the premises of the real names, stage names and addresses of all Performers working at the premises. The record will include either a copy of their birth certificate, current passport, EU driving licence or national identity card and shall be made immediately available for inspection by the Police and/or the Licensing Authority upon request.
15. Details of all work permits and/or immigration status relating to persons working at the premises shall be retained by the licence holder and be readily available for inspection by the Licensing Authority, a Police Officer or Immigration Officer.
16. Relevant Entertainment shall be given only by Performers and the audience shall not be permitted to participate in the relevant entertainment.
17. There shall be no physical contact between Performers whilst performing.
18. Performers will not request or give out any telephone number, address or any other contact information from or to any customer. Any such information given by a customer shall be surrendered to the premises manager as soon as is practicable.
19. Relevant Entertainment shall take place only in the designated areas approved by the Licensing Authority as shown on the licence plan. Arrangements for access to the dressing room shall be maintained at all times whilst Relevant Entertainment is taking place and immediately thereafter.
20. Customers must remain fully clothed at all times. The Performer must not remove any of the customer's clothing at any time.
21. Where Relevant Entertainment is provided in booths, or other areas of the premises where private performances are provided, the booth or area shall not have a door or other similar closure, the area shall be constantly monitored by CCTV, and access to the booth or other area shall be adequately supervised.
22. Whenever Relevant Entertainment is being provided there shall be no physical contact between Performers and customers or between customers and Performers except for the exchanging of money or tokens at the beginning or conclusion of the performance and only for the purpose of that performance. Clearly legible notices to this effect shall clearly be displayed in each private booth and in any performance area.
23. Performers must redress fully immediately after each performance.

#### **Additional Conditions**

24. At least one SIA registered door supervisor shall be permanently employed in the first floor licensed area of the premises and at least one permanently employed in the area providing entrance to the second floor bar area and the

entrance to the male/female toilets. In addition on such occasions that both floors are used for nude cabaret or nude table side dancing two additional door supervisors shall be so employed.

25. In the first floor theatre and second floor bar (a) nude cabaret may be provided and (b) nude table side dancing may be provided, for the avoidance of doubt, nude table side dancing is the performance of dance, either nude or partially nude, for customers seated at a table in return for consideration.
26. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 288 persons.
27. No licensable activities shall take place at the premises until the capacity of each part of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacities so determined.
28. Notwithstanding standard condition 17, necessary contact in order to perform skilled dance or acrobatic routines is permitted.
29. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
30. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
31. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
32. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
33. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
34. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
35. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
  - i. pyrotechnics including fire works
  - ii. firearms
  - iii. lasers
  - iv. explosives and highly flammable substances.
  - v. real flame.



vi. strobe lighting

36. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
37. No licensable activities shall take place at the premises until premises licence 15/06091/LISEVR (or such other licence subsequently issued for the premises) has been surrendered and is incapable of resurrection.

**7 THE BOX, 11-12 WALKER'S COURT, W1 - NEW SEXUAL ENTERTAINMENT VENUE PREMISES LICENCE 15/08973/LISEVN**

**LICENSING SUB-COMMITTEE No. 5**

*Thursday 3rd December 2015*

Membership: Councillor Angela Harvey (Chairman), Councillor Jan Prendergast and Councillor Rita Begum

Legal Adviser: Horatio Chance  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon

Objections: Environmental Health, Metropolitan Police and Objector 3.

Present: Mr Craig Baylis (Solicitor, representing the Operator, Too 2 Much Ltd), Mr Alun Thomas (Solicitor, representing the Landlord, Soho Estates), Mr Mark Hladnik (Designated Premises Supervisor), Mr Aasim Chaudry (General Manager), Mr Nick Lawson (Soho Estates), Mr Rory Aikenhead (Architect), Mr Ian Watson (Environmental Health) and PC Adam Deweltz (Metropolitan Police)

**The Box, 11-12 Walker's Court, W1  
15/08973/LISEVN**

An application for a new Sexual Entertainment Venue premises licence submitted by Too 2 Much Limited.

Amendments to application advised at hearing:

None.

Decision (including reasons if different from those set out in report):

Mr Thomas during the hearing explained the proposed changes that were envisaged

as a result of the intended redevelopment of Walker's Court following the grant of planning permission. The Sub-Committee noted that this particular application (15/08973/LISEVN) was for the final scheme once works were completed over an estimated two and a half to three year period. The Applicant was proposing to move the licensed areas as an interim measure from the first floor theatre and second floor bar to a ground floor VIP area and first floor main room and then under the final scheme to the basement VIP area and first floor main room.

The Sub-Committee noted that this was a new Sexual Entertainment Venue ('SEV') application. However, the Applicant was applying for the same activities (to provide burlesque, nude cabaret, nude performances and plays, adult related theatrical performances, striptease, pole dancing and table dancing and involve implied nudity, full and partial nudity between the hours of 09:00 to 04:00 on each of the days Monday to Saturday and 09:00 to 00:30 on Sundays) as was permitted on an existing SEV licence, 15/06091/LISEVR, held by the tenants. The overall capacity of 288 was also permitted on the existing SEV licence.

Mr Baylis, representing the Applicant (the tenants of the premises), referred to the fact that there was one resident objecting to the final scheme SEV licence application. An objector had concerns that the original plans were not being followed and requested that noise was minimised after 23:00 hours. Mr Baylis stated that generally noise was dealt with under the provisions of the Licensing Act 2003 rather than the SEV legislation. It was noted that if a review is submitted, it would be dealt with under the Licensing Act. Mr Thomas did address the Sub-Committee on the issue of patrons leaving the premises. He stated that there were also a minimum of two SIA licensed door supervisors and usually three stationed at the front entrance to respond to any potential disruption that might arise from patrons. Mr Chaudry informed Members that patrons were directed to Brewer Street where there were taxis and it was better lit rather than Peter Street which was pedestrianized. Patrons departed over a two hour period rather than all leaving when the premises closed and on New Year's Eve the premises tended not to operate the additional hour that was already permitted on the existing licences.

The two remaining representations submitted for the application were from the Metropolitan Police and Environmental Health. PC Deweltz made the point that the applications being considered at the hearing were new applications and The Box is located in the West End Stress Area. The applications could potentially add to cumulative impact. Mr Watson, on behalf of the Council's Environmental Health Department ("Environmental Health"), stated that a key aspect from Environmental Health's point of view was that the development ensured that there was adequate means of escape. Current means of escape needed to be maintained and new means of escape provided. He was content with the interim arrangements subject to clearance from the District Surveyor.

Mr Thomas requested that the capacity split for the floors at the premises was delegated to Environmental Health to determine rather than these being imposed at the hearing. Mr Wroe asked whether the respective Applicants (the landlords for the interim and final scheme applications under the provisions of the Licensing Act 2003 and the tenants for the interim and final scheme Sexual Entertainment Venue applications) were proposing to surrender their existing licences so that in the event the interim scheme applications were granted by the Sub-Committee, the current

licences were surrendered and when the final scheme licences came into effect the interim licences would be surrendered. Mr Thomas and Mr Baylis had no objection to this approach.

The Sub-Committee, in granting the application, considered that surrendering the existing and interim SEV licences over time would be beneficial as it would assist in controlling the capacity in the West End Stress Area. As a result of the surrendering of the existing and interim SEV licences as the development progressed, it would clarify that the total capacity of 288 and the hours for the activities sought were the same as the existing licence 15/06091/LISEVR. The Sub-Committee decided not to impose specific capacities for different areas of the premises as requested by Mr Thomas. Environmental Health would be relied upon to determine the capacities as a result of the works condition being attached to the SEV licence.

Members did not consider that any new evidence had been provided that questioned the suitability of the Applicant. The fact that the Applicant was content to surrender the existing and interim SEV licences as the development progressed meant that the number of SEVs in the locality would not exceed 25. The Box is located in the Westminster Core CAZ North and it was not felt that the character or use of premises in the vicinity had changed since a SEV licence was previously granted for the premises.

The Sub-Committee specifically considered the potential for noise emanating from the premises, particularly the access door to the smoking terrace and attached conditions proposed by Environmental Health and agreed by the Applicant accordingly for the interim and final scheme applications under the provisions of the Licensing Act 2003.

### **Conditions on the Licence**

#### **Standard Conditions**

1. Whilst Relevant Entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice to that effect shall be displayed at the entrance in a prominent position so that it can be easily read by persons entering the premises.
2. Whenever persons under the age of 18 are admitted to the premises there will be no promotional or other material on display within the premises which depicts nudity or partial nudity.
3. The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.
4. No provision of relevant entertainment, or material depicting nudity or relevant entertainment, shall be visible from outside the premises.

5. Menus and drinks price lists shall be clearly displayed at the front entrance of the club, reception area, tables and bar at such a position and size as to be easily read by customers. This price list shall show all consumable items and any minimum tariff including charges and fees applicable to Performers.
6. Except with the consent of the Licensing Authority, no advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) shall be inscribed or affixed at the premises, on the surface of the highway or on any building, structure, works, street furniture, tree or any other property or be distributed in the street to the public that advertises or promotes the relevant entertainment at the premises.
7. The licence holder or other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting, nor enter into any agreement with a third party to do so.
8. Adequate toilets, washing and changing facilities for use by the Performers shall be provided.
9. Either the licence holder or a named responsible person shall be present throughout the time the Relevant Entertainment takes place.
10. The premises will install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer that ensures all areas of the licensed premises are monitored including all entry and exit points will be covered enabling frontal identification of every person entering any light condition. All cameras shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period together with facilities for viewing.
11. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public and this staff member should be able to show Police recent data and footage with the absolute minimum of delay of the request.
12. An incident log shall be kept at the premises, and made available on request to the Licensing Authority or the Police, which will record the following:
  - (a) all crimes reported to the venue;
  - (b) all ejections of patrons;
  - (c) any complaints received;
  - (d) any incidents of disorder;
  - (e) seizures of drugs or offensive weapons;
  - (f) any faults in the CCTV system or searching equipment or scanning equipment;
  - (g) any refusal of the sale of alcohol;
  - (h) any visit by a relevant authority or emergency service;
  - (i) any breach of licence conditions reported by a Performer.

13. The licence holder shall produce a Code of Conduct setting out rules and obligations between the licence holder and performers whilst performing. All Performers shall sign the Code of Conduct in their proper name acknowledging that they have read, understood and are prepared to abide by the said Code of Conduct, and a copy so signed shall be retained by the licence holder and shall be readily available for inspection by the Police and/or authorised persons upon reasonable request.
14. Individual records shall be kept at the premises of the real names, stage names and addresses of all Performers working at the premises. The record will include either a copy of their birth certificate, current passport, EU driving licence or national identity card and shall be made immediately available for inspection by the Police and/or the Licensing Authority upon request.
15. Details of all work permits and/or immigration status relating to persons working at the premises shall be retained by the licence holder and be readily available for inspection by the Licensing Authority, a Police Officer or Immigration Officer.
16. Relevant Entertainment shall be given only by Performers and the audience shall not be permitted to participate in the relevant entertainment.
17. There shall be no physical contact between Performers whilst performing.
18. Performers will not request or give out any telephone number, address or any other contact information from or to any customer. Any such information given by a customer shall be surrendered to the premises manager as soon as is practicable.
19. Relevant Entertainment shall take place only in the designated areas approved by the Licensing Authority as shown on the licence plan. Arrangements for access to the dressing room shall be maintained at all times whilst Relevant Entertainment is taking place and immediately thereafter.
20. Customers must remain fully clothed at all times. The Performer must not remove any of the customer's clothing at any time.
21. Where Relevant Entertainment is provided in booths, or other areas of the premises where private performances are provided, the booth or area shall not have a door or other similar closure, the area shall be constantly monitored by CCTV, and access to the booth or other area shall be adequately supervised.
22. Whenever Relevant Entertainment is being provided there shall be no physical contact between Performers and customers or between customers and Performers except for the exchanging of money or tokens at the beginning or conclusion of the performance and only for the purpose of that performance. Clearly legible notices to this effect shall clearly be displayed in each private booth and in any performance area.
23. Performers must redress fully immediately after each performance.

### **Additional Conditions**

24. At least one SIA registered door supervisor shall be permanently employed in the first floor licensed area of the premises and at least one permanently employed in the area providing entrance to the second floor bar area and the entrance to the male/female toilets. In addition on such occasions that both floors are used for nude cabaret or nude table side dancing two additional door supervisors shall be so employed.
25. In the first floor theatre and second floor bar (a) nude cabaret may be provided and (b) nude table side dancing may be provided, for the avoidance of doubt, nude table side dancing is the performance of dance, either nude or partially nude, for customers seated at a table in return for consideration.
26. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 288 persons.
27. No licensable activities shall take place at the premises until the capacity of each part of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacities so determined.
28. Notwithstanding standard condition 17, necessary contact in order to perform skilled dance or acrobatic routines is permitted.
29. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
30. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
31. Curtains and hangings shall be arranged so as not to obstruct emergency signs.
32. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
33. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
34. All exit doors shall be available at all material times without the use of a key, code, card or similar means.
35. Any special effects or mechanical installations shall be arranged and stored so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.

- i. pyrotechnics including fire works
- ii. firearms
- iii. lasers
- iv. explosives and highly flammable substances.
- v. real flame.
- vi. strobe lighting

36. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
37. No licensable activities shall take place at the premises until premises licences 15/06091/LISEVR and 15/08960/LISEVN (or such other licences subsequently issued for the premises) have been surrendered and is incapable of resurrection.

**8 THE BOX, 11-12 WALKER'S COURT, W1 - NEW PREMISES LICENCE  
15/08883/LIPN**

**LICENSING SUB-COMMITTEE No. 5**  
*Thursday 3rd December 2015*

Membership: Councillor Angela Harvey (Chairman), Councillor Jan Prendergast and Councillor Rita Begum

Legal Adviser: Horatio Chance  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon

Objections: Environmental Health, Metropolitan Police and 1 local resident.

Present: Mr Craig Baylis (Solicitor, representing the Operator, Too 2 Much Ltd), Mr Alun Thomas (Solicitor, representing the Landlord, Soho Estates), Mr Mark Hladnik (Designated Premises Supervisor), Mr Aasim Chaudry (General Manager), Mr Nick Lawson (Soho Estates), Mr Rory Aikenhead (Architect), Mr Ian Watson (Environmental Health) and PC Adam Deweltz (Metropolitan Police)

<b>The Box, 11-12 Walker's Court, W1 15/08883/LIPN – Application submitted by Soho Estates Ltd.</b>	
<b>1.</b>	<b>Regulated Entertainment</b>
	<b><u>Films, Live Music, Performances of dance, Anything of a similar description to live music, recorded music or performances of dance</u></b>
Monday to Saturday:	09:00 to 04:00
Sunday:	09:00 to 00:00

	<p><b><u>Plays</u></b></p> <p>Monday to Saturday:                    09:00 to 04:00  Sunday:                                        14:00 to 00:00</p> <p><b><u>Recorded Music</u></b></p> <p>Monday to Sunday:                        00:00 to 00:00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Mr Thomas during the hearing explained the proposed changes that were envisaged as a result of the intended redevelopment of Walker’s Court following the grant of planning permission. He wished to make the point that in respect of this application before the Sub-Committee, 15/08883/LIPN, there were no changes to the proposed hours for licensable activities or the total capacity of 288 that were already permitted for the premises licence 14/01180/LIPN and the secondary licence 14/05202/LIPN. The Applicant’s redevelopment proposals were now different from those sought in April 2014 for the premises licence 14/01180/LIPN.</p> <p>Mr Thomas stated that this particular application (15/08883/LIPN) before the Sub-Committee was for a temporary interim solution to ensure that The Box would be able to keep trading whilst works were completed over an estimated two and a half to three year period. This included most significantly moving the VIP / staff toilets and changing area on an interim basis from the second floor to the ground floor. When the works were complete, the VIP area would be in a basement area in Walker’s Court where there would be no entry from the street. It was likely that this would include some of the area currently used by the Polpo restaurant. An application would need to be submitted for the restaurant area in the future. The second floor would under the final scheme become part of the theatre. The existing entrance was not changing at any stage and there was no entrance to the ground floor from Walker’s Court. There was little change proposed to the auditorium on the first floor as a result of either the interim scheme or the final scheme. Mr Aikenhead, in response to a question from the Sub-Committee, informed Members that there would be a slight reduction in floor space used overall for the interim and final schemes in comparison with the existing footprint for The Box.</p> <p>Mr Thomas requested that the capacity split for the floors at the premises was delegated to Environmental Health to determine rather than these being imposed at the hearing. He referred to the representation submitted by a local</p>



resident Miss Taylor. She had objected on the grounds of the extension of sale of alcohol and music on New Year's Eve and New Years' Day. Mr Thomas reiterated that his client was not seeking any extension of licensable activities, including on New Year's Eve and New Year's Day that were not already permitted for the premises licence 14/01180/LIPN and the secondary licence 14/05202/LIPN. He added that there were also a minimum of two SIA licensed door supervisors and usually three stationed at the front entrance to respond to any potential disruption that might arise from patrons. Mr Chaudry informed Members that patrons were directed to Brewer Street where there were taxis and it was better lit rather than Peter Street which was pedestrianized. Patrons departed over a two hour period rather than all leaving when the premises closed and on New Year's Eve the premises tended not to operate the additional hour that was already permitted on the existing licences.

The two remaining representations submitted for the application for the interim licence (15/08883/LIPN) were from the Metropolitan Police and Environmental Health. Proposed conditions had been agreed between the Responsible Authorities and the Applicant in the event the Sub-Committee was minded to grant the application. PC Deweltz made the point that the interim and final scheme applications were new applications and The Box is located in the West End Stress Area. The applications could potentially add to cumulative impact. Mr Watson, on behalf of Environmental Health, stated that a key aspect from Environmental Health's point of view was that the development ensured that there was adequate means of escape. Current means of escape needed to be maintained and new means of escape provided. He was content with the interim arrangements subject to clearance from the District Surveyor. Mr Watson drew Members' attention to the fact that he had included two noise complaints in his written representation. However, he clarified that it had not been possible to identify whether the source of the noise complaints was The Box or other premises in the locality.

Mr Watson also addressed the Sub-Committee on the smoking area. A representation had been made by Mr Rose, a local resident, in respect of the application of the final scheme about noise emanating from the fire escape over the bridge (Mr Thomas did respond that no noise complaints existed in Environmental Health's records for the existing smoking area). Mr Watson and Mr Thomas both referred to the smoking area moving from the fire escape over the bridge to an external smoking terrace. Mr Watson advised Members of the Sub-Committee that whilst the terrace was nearer to Peter Street, the smoking area would be purpose built so that it was enclosed but yet compliant. Conditions had been proposed by Environmental Health and agreed by the Applicant preventing licensable activities, drinks or glass containers or loudspeakers on the external smoking terrace. Mr Watson added that a proposed condition had also been agreed with the Applicant that the access door leading onto the terrace would be kept closed at all times except for immediate access and egress and this needed to be supervised as music had escaped from this area in the past. Mr Thomas confirmed that the re-location of the smoking area was relevant for both the interim and final scheme applications. The Applicant was confident that there would be no noise emanating from it.

The Sub-Committee explored with Mr Watson and representatives of The Box the potential action which could be taken to ensure that noise did not emanate through the access door leading onto the external smoking terrace. Mr Watson advised that the auditorium was where music was played. Provided there were no loudspeakers in the staircase area, there should be no music escape. The Applicant employed a noise consultant and it was important that the necessary sound proofing was implemented and soft furnishings used. Environmental Health would undertake a final inspection to check that noise would not emanate through the access door. Mr Chaudry confirmed that a SIA registered door supervisor would oversee the smoking area. Mr Thomas added that the Applicant would work with Mr Watson and provide feedback to him on the findings of the acoustic report.

Mr Wroe asked whether the respective Applicants (the landlords for the interim and final scheme applications under the Licensing Act 2003 and the tenants for the interim and final scheme Sexual Entertainment Venue applications) were proposing to surrender their existing licences so that in the event the interim scheme applications were granted by the Sub-Committee, the current licences were surrendered and when the final scheme licences came into effect the interim licences would be surrendered. Mr Thomas and Mr Baylis, who was representing the tenants, had no objection to this approach. Mr Thomas advised that there were three premises licences held for The Box. These were the licence that was currently being operated (marked in yellow on the plans he had submitted to the Sub-Committee), the one that had been granted in April 2014 (marked in red on the same plans) which the Applicant was no longer proceeding with and the secondary (or shadow) licence which was identical to the April 2014 one and was granted in August 2014.

The Sub-Committee, in reaching a decision, noted the point made by the Police that it was a new application in the West End Stress Area. However, Members considered that the agreement to surrender the existing and interim licences over time would ensure that the licensing objectives were not undermined and that there would not be any addition to cumulative impact. The Applicant was not proposing to increase the proposed hours for licensable activities or the overall capacity for The Box. The Sub-Committee decided not to impose specific capacities for different areas of the premises as requested by Mr Thomas or specify what measures needed to be taken to ensure that noise did not emanate from the access door to the smoking terrace. Environmental Health would be relied upon to determine the capacities and further reduce the potential for noise breakout from the access door.

The Sub-Committee attached to the premises licence the conditions that were currently on the existing secondary or shadow licence 14/05202/LIPN. In addition the conditions proposed by Environmental Health and agreed by the Applicant which related to the external smoking terrace were attached and also the surrender conditions discussed with the Applicants.

**2. Sale by retail of alcohol (On and Off):**

Monday to Saturday: 10:00 to 03:00

	Sunday: 12:00 to 00:00
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  Granted, subject to conditions as set out below (see reasons for decision in Section 1).
<b>3.</b>	<b>Late Night Refreshment:</b>
	Monday to Saturday: 23:00 to 04:00 Sunday: 23:00 to 00:30
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  Granted, subject to conditions as set out below (see reasons for decision in Section 1).
<b>4.</b>	<b>Seasonal Variations:</b>
	<b><u>Plays, Films, Live Music, Performances of dance, Anything of a similar description to live music, recorded music or performances of dance, Late Night Refreshment, Sale by retail of alcohol (on and off) and opening hours.</u></b>  The hours for licensable activities and opening times shall be extended from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  Granted, subject to conditions as set out below (see reasons for decision in Section 1).

<b>5. Opening Hours:</b>	
Monday to Saturday: Sunday:	09:00 to 04:00 09:00 to 00:30
Amendments to application advised at hearing:  None.	
Decision (including reasons if different from those set out in report):  Granted, subject to conditions as set out below (see reasons for decision in Section 1).	

<b>Conditions attached to the Licence</b>	
<b><u>Mandatory Conditions</u></b>	
1.	No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2.	No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3.	Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.	<p>(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.</p> <p>(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—</p> <p>(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;</p> <p>(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of</p>

- the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
5. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
6. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
7. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark..
8. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures;
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml; and

- (b) customers are made aware of the availability of these measures.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

- 9(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

- 9(ii) For the purposes of the condition set out in paragraph 9(i) above -

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,  
(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and  
(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,  
(ii) the designated premises supervisor (if any) in respect of such a licence, or  
(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

- 9(iii). Where the permitted price given by Paragraph 9(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-

paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

- 9(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.
10. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.
11. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority

### **Additional Conditions**

12. On New Year's Eve the premises can remain open for the purpose of providing regulated entertainment from the time when the provision of regulated entertainment must otherwise cease on New Year's Eve to the time when regulated entertainment can commence on New Year's Day (or until midnight on New Year's Eve where no regulated entertainment takes place on New Year's Day).
13. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
14. Any scenery to be kept or used on the premises shall be constructed only from such material as the Council accepts for use on open stages and such scenery shall be restricted to that necessary for the current performance and shall be used on the stages only.
15. Substantial food and suitable beverages other than alcohol (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where alcohol is sold or supplied.
16. The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.
17. The sale or supply of alcohol must end at midnight on any day on which music and dancing is not provided after midnight.
18. On any day that music and dancing end between midnight and 03.00, the sale or supply of alcohol shall end when the music and dancing end.

19. In relation to the morning on which summer time begins, the terminal hour for the sale or supply of alcohol on weekdays (Monday to Saturday) shall extend until 04.00
20. The sale or supply of alcohol on New Year's Eve will extend to the time when the sale or supply of alcohol can commence on New Year's Day.
21. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.
22. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
23. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
24. On any evening where the premises or part of the premises are open for the purpose of music, dance or entertainment in which the sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment, alcohol shall not be sold or supplied to persons admitted to the premises after 23:00 other than to:
  - a) Persons who will pay an admission or table fee (not to be credited against consumables).
  - b) Artistes or person employed at the premises.
  - c) Bona fide guests of the proprietor, the total number of whom shall not exceed at any one time 10% of the total capacity for the premises (as specified on the Premises Licence for the premises). A list individually naming all such persons shall be kept at reception for inspection by the appropriate authorities.
  - d) Persons taking pre-booked full table meals, a list of whom shall be kept at the reception for inspection by the appropriate authorities.
  - e) Persons attending private functions, booked at least 24 hours in advance, the function organisers name and address to be recorded and kept for inspection by the Police and authorised officers of the council for a minimum 31 days.



f) Members of the club and their bona fide guests (no member to be permitted more than 3 guests at a time) a list of whom shall be held at reception for inspection by the relevant authorities. No persons shall be admitted to membership without an interval of at least 24 hours between nomination or application for membership or admission.

25. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 288 persons.
26. No licensable activities shall take place at the premises until the capacity of each part of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacities so determined.
27. Door staff shall remind patrons to minimise disturbance when they leave.
28. The sale and supply of alcohol and food shall only take place within the premises and customers shall not be permitted to remove these from the premises.
29. A daily log is to be maintained to ensure that any capacity limit set is recorded hourly and can be properly monitored. Information regarding the capacity will be given to an authorised officer or police officer on request.
30. Clearly legible notices shall be displayed at all exits from the premises requesting patrons to respect the needs of the local residents and to leave the premises and area quietly.
31. The premises shall order cabs for patrons on request and the basis for the operation is to be agreed with the Metropolitan Police, Environmental Health and Highways Authority.
32. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
33. All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection time.
34. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, Premises Management so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

35. Any music played in the entrance lobby on the ground floor will be way of background music only.
36. A representative of the premises licence holder shall attend the local Pubwatch meetings.
37. When the premises is open for licensable activities after 22:00 there shall be a minimum of 2 SIA licensed door supervisors stationed at the front entrance.
38. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police, which will record any refusal of sale of alcohol.
39. The premises will participate in the Westminster Licensed premises shared radio scheme approved by Westminster City Council and the Metropolitan Police.
40. If any entertainment is provided for children or if entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of this premises licence:
  - a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate,
  - b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and
  - c) to take all other reasonable precautions for the safety of the children.
  - d) If any entertainment is provided solely for children's purposes, there shall be no retail sale of alcohol permitted and no nude cabaret or nude table side dancing permitted
  - e) If any functions or private events are attended by any children the premises licence holder shall ensure that (a) no nude cabaret or nude table side dancing is provided and a premises risk assessment is carried out and (b) there are adequate policies in place to ensure that children are not sold or supplied alcohol otherwise than in accordance with the Licensing Act 2003. Copies of the premises risk assessment in this regard shall be made available to police and authorised officers of the council upon request and will be retained for a minimum of 31 days.
41. There shall be no gambling on the premises.
42. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.

43. No deliveries to the premises shall take place between 23.00 and 07.00 on the following day.
44. No licensable activities shall be carried out on the external smoking terrace.
45. No drinks or glass containers shall be permitted on the external smoking terrace.
46. The access door leading onto the external smoking terrace shall be kept closed at all times except for immediate access and egress.
47. Loudspeakers shall not be located outside the premises building including the external smoking terrace.
48. The premises licence holder shall ensure that any patrons smoking outside the premises, including on the terrace, do so in an orderly manner and are supervised by staff at all times so as to ensure that there is no public nuisance caused.
49. No licensable activities shall take place at the premises until premises licences 12/10998/LIPDPS, 14/09066/LIDPSR and 14/09067/LIDPSR (or such other licences subsequently issued for the premises) have been surrendered and is incapable of resurrection.

**9 THE BOX, 11-12 WALKER' COURT, W1 - NEW PREMISES LICENCE  
15/08865/LIPN**

**LICENSING SUB-COMMITTEE No. 5**

*Thursday 3rd December 2015*

Membership: Councillor Angela Harvey (Chairman), Councillor Jan Prendergast and Councillor Rita Begum

Legal Adviser: Horatio Chance  
 Policy Adviser: Chris Wroe  
 Committee Officer: Jonathan Deacon

Objections: Environmental Health, Metropolitan Police and 2 local residents.

Present: Mr Craig Baylis (Solicitor, representing the Operator, Too 2 Much Ltd), Mr Alun Thomas (Solicitor, representing the Landlord, Soho Estates), Mr Mark Hladnik (Designated Premises Supervisor), Mr Aasim Chaudry (General Manager), Mr Nick Lawson (Soho Estates), Mr Rory Aikenhead (Architect), Mr Ian Watson (Environmental Health) and PC Adam Deweltz (Metropolitan Police)

**The Box, 11-12 Walker's Court, W1  
15/08865/LIPN – Application submitted by Soho Estates Ltd.**

**1. Regulated Entertainment**

**Films, Live Music, Performances of dance, Anything of a similar description to live music, recorded music or performances of dance**

Monday to Saturday: 09:00 to 04:00  
Sunday: 09:00 to 00:00

**Plays**

Monday to Saturday: 09:00 to 04:00  
Sunday: 14:00 to 00:00

**Recorded Music**

Monday to Sunday: 00:00 to 00:00

Amendments to application advised at hearing:

None.

Decision (including reasons if different from those set out in report):

Mr Thomas during the hearing explained the proposed changes that were envisaged as a result of the intended redevelopment of Walker's Court following the grant of planning permission. He wished to make the point that in respect of this application before the Sub-Committee, 15/08865/LIPN, there were no changes to the proposed hours for licensable activities or the total capacity of 288 that were already permitted for the premises licence 14/01180/LIPN and the secondary licence 14/05202/LIPN. The Applicant's redevelopment proposals were now different from those sought in April 2014 for the premises licence 14/01180/LIPN.

Mr Thomas stated that this particular application (15/08865/LIPN) before the Sub-Committee was for the final scheme once works were completed over an estimated two and a half to three year period. As part of the interim scheme application the VIP / staff toilets and changing area would move from the second floor to the ground floor. When the works were complete, the VIP area would be in a basement area in Walker's Court where there would be no entry from the street. It was likely that this would include some of the area currently used by the Polpo restaurant. An application would need to be submitted for the restaurant area in the future. The second floor would under the final scheme become part of the theatre. The existing entrance was not changing at any stage and there was no entrance to the ground floor from Walker's Court. There

was little change proposed to the auditorium on the first floor as a result of either the interim scheme or the final scheme. Mr Aikenhead, in response to a question from the Sub-Committee, informed Members that there would be a slight reduction in floor space used overall for the interim and final schemes in comparison with the existing footprint for The Box.

Mr Thomas requested that the capacity split for the floors at the premises was delegated to the Council's Environmental Health Department ("Environmental Health") to determine rather than these being imposed at the hearing. He referred to the representation submitted by a local resident Mr Rose. He expressed the view that there were two aspects to the representation. Firstly, Mr Rose had concerns about noise emanating from the fire escape over the bridge. Mr Thomas responded to this point that the smoking area was moving from the fire escape over the bridge to an external smoking terrace. There would be a purpose built area for smoking which contrasted favourably with the current location. The second aspect of Mr Rose's representation related to noise from patrons leaving the premises. Mr Thomas stated that this was the busiest area in Soho and it was unfair to directly attribute all the noise made to The Box. There was a lack of recorded complaints made to Environmental Health by residents. He added that there were also a minimum of two SIA licensed door supervisors and usually three stationed at the front entrance to respond to any potential disruption that might arise from patrons. Mr Chaudry informed Members that patrons were directed to Brewer Street where there were taxis and it was better lit rather than Peter Street which was pedestrianized.

The two remaining representations submitted for the application for the final scheme licence (15/08865/LIPN) were from the Metropolitan Police and Environmental Health. Proposed conditions had been agreed between the Responsible Authorities and the Applicant in the event the Sub-Committee was minded to grant the application. PC Deweltz made the point that the interim and final scheme applications were new applications and The Box is located in the West End Stress Area. The applications could potentially add to cumulative impact. Mr Watson, on behalf of Environmental Health, stated that a key aspect from Environmental Health's point of view was that the development ensured that there was adequate means of escape. Current means of escape needed to be maintained and new means of escape provided. He was content with the interim arrangements subject to clearance from the District Surveyor. Mr Watson drew Members' attention to the fact that he had included two noise complaints in his written representation. However, he clarified that it had not been possible to identify whether the source of the noise complaints was The Box or other premises in the locality.

Mr Watson also addressed the Sub-Committee on the smoking area. He confirmed that whilst the terrace was nearer to Peter Street, the smoking area would be purpose built so that it was enclosed but yet compliant. Conditions had been proposed by Environmental Health and agreed by the Applicant preventing licensable activities, drinks or glass containers or loudspeakers on the external smoking terrace. Mr Watson added that a proposed condition had also been agreed with the Applicant that the access door leading onto the terrace would be kept closed at all times except for immediate access and egress and this needed to be supervised as music had escaped from this area in

the past. Mr Thomas confirmed that the re-location of the smoking area was relevant for both the interim and final scheme applications. The Applicant was confident that there would be no noise emanating from it.

The Sub-Committee explored with Mr Watson and representatives of The Box the potential action which could be taken to ensure that noise did not emanate through the access door leading onto the external smoking terrace. Mr Watson advised that the auditorium was where music was played. Provided there were no loudspeakers in the staircase area, there should be no music escape. The Applicant employed a noise consultant and it was important that the necessary sound proofing was implemented and soft furnishings used. Environmental Health would undertake a final inspection to check that noise would not emanate through the access door. Mr Chaudry confirmed that a SIA registered door supervisor would oversee the smoking area. Mr Thomas added that the Applicant would work with Mr Watson and provide feedback to him on the findings of the acoustic report.

Mr Wroe asked whether the respective Applicants (the landlords for the interim and final scheme applications under the provisions of the Licensing Act 2003 and the tenants for the interim and final scheme Sexual Entertainment Venue applications) were proposing to surrender their existing licences so that in the event the interim scheme applications were granted by the Sub-Committee, the current licences were surrendered and when the final scheme licences came into effect the interim licences would be surrendered. Mr Thomas and Mr Baylis, who was representing the tenants, had no objection to this approach. Mr Thomas advised that there were three premises licences held for The Box. These were the licence that was currently being operated (marked in yellow on the plans he had submitted to the Sub-Committee), the one that had been granted in April 2014 (marked in red on the same plans) which the Applicant was no longer proceeding with and the secondary (or shadow) licence which was identical to the April 2014 one and was granted in August 2014.

The Sub-Committee, in reaching a decision, noted the point made by the Police that it was a new application in the West End Stress Area. However, Members considered that the agreement to surrender the existing and interim licences over time would ensure that the licensing objectives were not undermined and that there would not be any addition to cumulative impact. The Applicant was not proposing to increase the proposed hours for licensable activities or the overall capacity for The Box. The Sub-Committee decided not to impose specific capacities for different areas of the premises as requested by Mr Thomas or specify what measures needed to be taken to ensure that noise did not emanate from the access door to the smoking terrace. Environmental Health would be relied upon to determine the capacities and further reduce the potential for noise breakout from the access door.

The Sub-Committee attached to the premises licence the conditions that were currently on the existing secondary or shadow licence 14/05202/LIPN. In addition the conditions proposed by Environmental Health and agreed by the Applicant which related to the external smoking terrace were attached and also the surrender conditions discussed with the Applicants.

2.	<b>Sale by retail of alcohol (On and Off):</b>
	<p>Monday to Saturday: 10:00 to 03:00  Sunday: 12:00 to 00:00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>
3.	<b>Late Night Refreshment:</b>
	<p>Monday to Saturday: 23:00 to 04:00  Sunday: 23:00 to 00:30</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>
4.	<b>Seasonal Variations:</b>
	<p><b><u>Plays, Films, Live Music, Performances of dance, Anything of a similar description to live music, recorded music or performances of dance, Late Night Refreshment, Sale by retail of alcohol (on and off) and opening hours.</u></b></p> <p>The hours for licensable activities and opening times shall be extended from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>

	Decision (including reasons if different from those set out in report):  Granted, subject to conditions as set out below (see reasons for decision in Section 1).
<b>5.</b>	<b>Opening Hours:</b>
	Monday to Saturday:                      09:00 to 04:00 Sunday:    09:00 to 00:30
	Amendments to application advised at hearing:  None.
	Decision (including reasons if different from those set out in report):  Granted, subject to conditions as set out below (see reasons for decision in Section 1).

<b>Conditions attached to the Licence</b>	
<b><u>Mandatory Conditions</u></b>	
1.	No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2.	No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3.	Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.	(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—



- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
5. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
6. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
7. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark..
8. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following

measures;

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

9(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

9(ii) For the purposes of the condition set out in paragraph 9(i) above -

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or

officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

- 9(iii). Where the permitted price given by Paragraph 9(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 9(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.
10. Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.
11. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority

### **Additional Conditions**

12. On New Year's Eve the premises can remain open for the purpose of providing regulated entertainment from the time when the provision of regulated entertainment must otherwise cease on New Year's Eve to the time when regulated entertainment can commence on New Year's Day (or until midnight on New Year's Eve where no regulated entertainment takes place on New Year's Day).
13. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
14. Any scenery to be kept or used on the premises shall be constructed only from such material as the Council accepts for use on open stages and such scenery shall be restricted to that necessary for the current performance and shall be used on the stages only.
15. Substantial food and suitable beverages other than alcohol (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where alcohol is sold or supplied.
16. The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.

17. The sale or supply of alcohol must end at midnight on any day on which music and dancing is not provided after midnight.
18. On any day that music and dancing end between midnight and 03.00, the sale or supply of alcohol shall end when the music and dancing end.
19. In relation to the morning on which summer time begins, the terminal hour for the sale or supply of alcohol on weekdays (Monday to Saturday) shall extend until 04.00
20. The sale or supply of alcohol on New Year's Eve will extend to the time when the sale or supply of alcohol can commence on New Year's Day.
21. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.
22. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
23. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
24. On any evening where the premises or part of the premises are open for the purpose of music, dance or entertainment in which the sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment, alcohol shall not be sold or supplied to persons admitted to the premises after 23:00 other than to:
  - a) Persons who will pay an admission or table fee (not to be credited against consumables).
  - b) Artistes or person employed at the premises.
  - c) Bona fide guests of the proprietor, the total number of whom shall not exceed at any one time 10% of the total capacity for the premises (as specified on the Premises Licence for the premises). A list individually naming all such persons shall be kept at reception for inspection by the appropriate authorities.
  - d) Persons taking pre-booked full table meals, a list of whom shall be kept

at the reception for inspection by the appropriate authorities.

- e) Persons attending private functions, booked at least 24 hours in advance, the function organisers name and address to be recorded and kept for inspection by the Police and authorised officers of the council for a minimum 31 days.
- f) Members of the club and their bona fide guests (no member to be permitted more than 3 guests at a time) a list of whom shall be held at reception for inspection by the relevant authorities. No persons shall be admitted to membership without an interval of at least 24 hours between nomination or application for membership or admission.

25. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed 288 persons.
26. No licensable activities shall take place at the premises until the capacity of each part of the premises has been determined by the Environmental Health Consultation Team and the licensing authority has replaced this condition on the licence with a condition detailing the capacities so determined.
27. Door staff shall remind patrons to minimise disturbance when they leave.
28. The sale and supply of alcohol and food shall only take place within the premises and customers shall not be permitted to remove these from the premises.
29. A daily log is to be maintained to ensure that any capacity limit set is recorded hourly and can be properly monitored. Information regarding the capacity will be given to an authorised officer or police officer on request.
30. Clearly legible notices shall be displayed at all exits from the premises requesting patrons to respect the needs of the local residents and to leave the premises and area quietly.
31. The premises shall order cabs for patrons on request and the basis for the operation is to be agreed with the Metropolitan Police, Environmental Health and Highways Authority.
32. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
33. All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection time.
34. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, Premises Management so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall

only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

35. Any music played in the entrance lobby on the ground floor will be way of background music only.
36. A representative of the premises licence holder shall attend the local Pubwatch meetings.
37. When the premises is open for licensable activities after 22:00 there shall be a minimum of 2 SIA licensed door supervisors stationed at the front entrance.
38. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police, which will record any refusal of sale of alcohol.
39. The premises will participate in the Westminster Licensed premises shared radio scheme approved by Westminster City Council and the Metropolitan Police.
40. If any entertainment is provided for children or if entertainment is provided at which the majority of persons attending are children, then, if the number of children attending the entertainment exceeds 100, it shall be the duty of the holder of this premises licence:
  - a) to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate,
  - b) to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and
  - c) to take all other reasonable precautions for the safety of the children.
  - d) If any entertainment is provided solely for children's purposes, there shall be no retail sale of alcohol permitted and no nude cabaret or nude table side dancing permitted
  - e) If any functions or private events are attended by any children the premises licence holder shall ensure that (a) no nude cabaret or nude table side dancing is provided and a premises risk assessment is carried out and (b) there are adequate policies in place to ensure that children are not sold or supplied alcohol otherwise than in accordance with the Licensing Act 2003. Copies of the premises risk assessment in this regard shall be made available to police and authorised officers of the council upon request and will be retained for a minimum of 31 days.

41. There shall be no gambling on the premises.
42. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
43. No deliveries to the premises shall take place between 23.00 and 07.00 on the following day.
44. No licensable activities shall be carried out on the external smoking terrace.
45. No drinks or glass containers shall be permitted on the external smoking terrace.
46. The access door leading onto the external smoking terrace shall be kept closed at all times except for immediate access and egress.
47. Loudspeakers shall not be located outside the premises building including the external smoking terrace.
48. The premises licence holder shall ensure that any patrons smoking outside the premises, including on the terrace, do so in an orderly manner and are supervised by staff at all times so as to ensure that there is no public nuisance caused.
49. No licensable activities shall take place at the premises until premises licences 12/10998/LIPDPS, 14/09066/LIDPSR, 14/09067/LIDPSR and 15/08883/LIPN (or such other licences subsequently issued for the premises) have been surrendered and is incapable of resurrection.